

REMARKS

Prior to discussing the Interview Summary, Applicant's counsel wishes to thank Supervisor Daniel P. Stodola for taking the time to speak with Applicant's counsel via telephone on November 10, 2004 regarding the prosecution of the present application.

On or about October 14, 2004, Examiner Dunwoody telephoned Applicant's counsel to conduct a telephonic interview regarding the present application. In the Interview Summary, the Examiner characterizes the interview by stating in part, "The Examiner attempted to further discuss the invention of amended claim 1, but the Applicant's Representative respectfully declined." ***This characterization is utterly false.***

The purpose of the Examiner's telephone call was not to discuss amended claim 1, but instead, was an attempt by the Examiner to discuss further amendments to claim 1. Particularly, the Examiner reduced claim 1 to what the Examiner considered as the "gist" of the invention, and proceeded to verbally inform Applicant's counsel that claim 1 would not be allowed in view of the alleged "gist." This was in spite of the fact that Applicant's counsel had twice amended the independent claims to incorporate dependent claims that the Examiner had explicitly allowed in two prior Office Actions.¹ Moreover, this "verbal rejection" was made without the citation of supporting references. Applicant's counsel did not decline to discuss claim 1. Indeed, claim 1 was discussed. Rather, Applicant's counsel objected to the Examiner's unwarranted simplification of the invention of claim 1, and respectfully declined to discuss any further amendments to claim 1 based on an unsubstantiated verbal rejection levied over the telephone.

Applicant's counsel later telephoned the Examiner on November 5, 2004 to discuss the interview summary, and to further discuss claim 1. During this interview, the Examiner stated

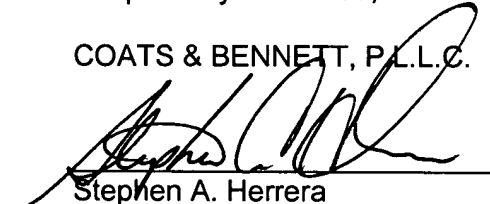
¹ Specifically, the present application has been the subject of a first Office Action and a Final Office Action dated March 31, 2004 and August 24, 2004, respectively. In both Office Actions, the Examiner rejected the independent claims and objected to several dependent claims. In Applicant's responses to both Office Actions, Applicant's counsel amended the claims to include the subject matter the Examiner indicated as allowable.

that he had not properly considered the invention of claim 1 as it was claimed, and respectfully apologized. Nevertheless, the Examiner stated that the claims would not be allowed without further amendments. The Examiner identified the structure described on page 4, lines 8-11 of the specification, and stated that if the claim were amended to include all the structure, he would consider, but not guarantee, allowance. Applicant's counsel once again respectfully declined to make any further amendments based on the unsupported verbal rejection, and no agreement was reached.

So far as Applicant is concerned, and as evidenced by Applicant's response to the Final Office Action, all pending claims are in condition for allowance. The independent claims have been amended to incorporate subject matter explicitly allowed by the Examiner. As of this writing, Applicant's counsel has not received any official communication regarding rejections to the claims. Therefore, Applicant respectfully declines to undertake any further amendments of the pending claims. Applicant awaits the issuance of the Notice of Allowance by the Examiner.

Respectfully submitted,

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